

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

### NOTICE OF EXEMPT RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

*Editor's Note: Because the Citizen's Clean Elections Commission is an independent agency, the following Notice of Exempt Rulemaking was exempt from the Governor's Regulatory Review Plan memoranda of January 22, 2009 and April 30, 2009. (See a copy of the memoranda in this issue on pages 1472 through 1474.)*

[R09-80]

#### PREAMBLE

- 1. Sections Affected**  
R2-20-104
- Rulemaking Action**  
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 16-940, et seq.  
Implementing statute: A.R.S. § 16-956(C)
- 3. The effective date of the rules:**  
April 30, 2010
- 4. A list of all previous notices appearing in the *Register* addressing the exempt rule:**  
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Todd Lang, Executive Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
Fax: (602) 364-3487  
E-mail: todd.lang@azcleelections.gov  
or  
Name: Colleen McGee, Deputy Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
Fax: (602) 364-3487  
E-mail: colleen.mcgee@azcleelections.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
R2-20-104 prescribes the requirements for obtaining certification as a participating candidate. The Commission proposes to repeal R2-20-104(F) effective April 30, 2010. This rule permits candidates to raise funds for "officeholder expenses," which cannot constitute express advocacy as defined at A.R.S. § 16-901.01, without triggering matching funds or counting against fundraising limits for participating candidates. This rule was implemented to address the

Notices of Exempt Rulemaking

broad definition of “contribution” at A.R.S. § 16-901 so that candidates could raise money for non-election purposes without violating Clean Election laws. The Commission proposes to repeal this rule based on feedback received from candidates and officeholders.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

Not applicable

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Changes between rules as initially proposed and as finally adopted by the Commission were primarily grammatical and stylistic. Additional changes were incorporated at the suggestion of members of the public and Commissioners to clarify terms and provisions of the rules.

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Commissioners solicited public comment throughout the rulemaking process. Comments were generally supportive of the revised rules. Requests for clarifications and revisions and statements in support or opposition to specific provisions were duly considered by the Commission at open meetings and were acted upon as deemed appropriate.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Not applicable

**15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-104. Certification as a Participating Candidate

ARTICLE 1. GENERAL PROVISIONS

**R2-20-104. Certification as a Participating Candidate**

- A.** A nonparticipating candidate who accepts contributions up to the limits authorized by A.R.S. § 16-905, but later chooses to run as a participating candidate, shall:
1. Make the change to participating candidate status during the exploratory and qualifying periods only;
  2. Return the amount of each contribution in excess of the individual contribution limit for participating candidates;
  3. Return all Political Action Committee (PAC) monies received;
  4. Not have spent contributions exceeding the early contribution limit, or any part of a contribution exceeding the early contribution limit;
  5. Comply with all provisions of A.R.S. § 16-941 and Commission rules.
- B.** Money from prior election. If a nonparticipating candidate has a cash balance remaining in the campaign account from the prior election cycle, the candidate may seek certification as a participating candidate in the current election after:
1. Transferring money from the prior campaign account to the candidate’s current election campaign account. The amount transferred shall not exceed the permitted personal monies, early contributions, and debt-retirement contributions, as defined in A.R.S. § 16-945(C);
  2. Spending the money lawfully prior to April 30 of an election year in a way that does not constitute a direct campaign

Notices of Exempt Rulemaking

purpose and does not meet the definition of “expenditure” under A.R.S. § 16-901(8); and the event or item purchased is completed or otherwise used and depleted prior to April 30 of an election year;

3. Remitting the money to the Fund;
  4. Disposing of the money in accordance with A.R.S. § 16-915.01; or
  5. Holding the money in the prior election campaign account, not to be used during the current election, except as provided pursuant to this Section.
- C. Application for certification as a participating candidate. Pursuant to A.R.S. § 16-947, a candidate seeking certification shall file with the Secretary of State a Commission approved application and a campaign finance report reflecting all campaign activity to date, in accordance with A.R.S. § 16-915. In the application, a candidate shall certify under oath that the candidate:
1. Agrees to use all Clean Elections funding for direct campaign purposes only;
  2. Has filed a campaign finance report, showing all campaign activity to date in the current election cycle;
  3. Will comply with all requirements of the Act and Commission rules;
  4. Is subject to all enforcement actions by the Commission as authorized by the Act and Commission rules;
  5. Has the burden of proving that expenditures made by or on behalf of the candidate are for direct campaign purposes;
  6. Will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request;
  7. Will permit an audit or examination by the Commission of all receipts and expenditures including those made by the candidate. The candidate shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate shall facilitate the audit by making available in one central location, such as the Commission’s office space, records and such personnel as are necessary to conduct the audit or examination, and shall pay any amounts required to be repaid;
  8. Will submit the name and mailing address of the person who is entitled to receive equalizing fund payments on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this subsection shall not be effective until submitted to the Commission in a letter signed or submitted electronically, by the candidate or the committee treasurer;
  9. Will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate;
  10. Will timely file all campaign finance reports with the Secretary of State in an electronic format; and
  11. Will file an amended application for certification reporting any change in the information prescribed in the application for certification within five days after the change.
- D. If certified as a participating candidate, the candidate shall:
1. Only accept early contributions from individuals during the exploratory and qualifying periods in accordance with A.R.S. § 16-945. No contributions may be accepted from political action committees, political parties or corporations;
  2. Not accept any private contributions, other than early contributions and a limited number of \$5 qualifying contributions;
  3. Make expenditures of personal monies of no more than the amounts prescribed in A.R.S. § 16-941(A)(2) for legislative candidates and for statewide office candidates;
  4. Conduct all campaign activity through a single campaign account. A participating candidate shall only deposit early contributions, qualifying contributions and Clean Elections funds into the candidate’s current campaign account. The campaign account shall not be used for any non-direct campaign purpose as provided in Article 7 of these rules;
  5. Attend at least one candidate training class sponsored by the Commission. If the candidate is unable to attend a training class, the candidate shall:
    - a. Notify the Commission that the candidate is unable to attend a training class. The Commission then will send that person the Commission training materials; and
    - b. The candidate shall sign and send to the Commission a statement certifying that the candidate has received and reviewed the Commission training materials; and
  6. Limit campaign expenditures. Prior to qualifying for Clean Elections funding, a candidate shall not incur debt, or make an expenditure in excess of the amount of cash on hand. Upon approval for funding by the Secretary of State, a candidate may incur debt, or make expenditures, not to exceed the sum of the cash on hand and the applicable spending limit.
- E. Personal loans. A participating candidate may loan his or her campaign committee personal monies during the exploratory and qualifying periods only. The total sum of personal funds and loans shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2). If the loan is to be repaid, the loans shall be repaid promptly upon receipt of Clean Elections funds if the participating candidate qualifies for Clean Elections funding. Loans from a bank, or other institution listed in A.R.S. § 16-901(5)(b)(vii) to a candidate shall be considered personal monies and shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2).
- F. ~~Officeholder Expenses. Prior to April 30 of an election year, an elected official may raise or spend money to defray the~~

Notices of Exempt Rulemaking

~~expense of performing officeholder duties and the event or item purchased shall be completed or otherwise used and depleted prior to April 30 of an election year, as follows:~~

- ~~1. The candidate may first exhaust all surplus monies from prior campaign accounts pursuant to subsection (B) of this rule or may use personal monies for officeholder expenses;~~
- ~~2. Money raised shall be only from individuals and the maximum raised from an individual during the election cycle shall not exceed one half the early contribution limit;~~
- ~~3. The sum of the money raised or spent shall not exceed two times the early contribution limit applicable to the officeholder's current office;~~
- ~~4. For an officeholder's future campaign as a:
  - a. Participating candidate
    - i. Money raised pursuant to this subsection will not be deemed early contributions, and
    - ii. Personal money spent pursuant to this subsection shall not apply to personal money expenditure limits provided in A.R.S. § 16-941(A)(2).
  - b. Nonparticipating candidate
    - i. Money raised or spent pursuant to this subsection will not be calculated in matching funds to opponents as provided in A.R.S. § 16-952, and
    - ii. Money raised or spent pursuant to this subsection will not trigger the reporting requirements provided in A.R.S. §§ 16-941(D) and 16-958.~~
- ~~5. Any money raised or spent in excess of the limits established in this Section, however, shall be calculated as early contributions or personal monies for participating candidates, or for matching funds and reporting requirements for nonparticipating candidates;~~
- ~~6. Money raised or spent for officeholder expenses shall be reported under campaign finance reporting requirements pursuant to A.R.S. Title 16, Chapter 6, Article 1 as follows:
  - a. The officeholder shall establish an account for officeholder expenses, which shall be separate from any candidate campaign account;
  - b. The account shall be designated on the statement of organization as "Officeholder Expense Account;" and
  - e. Any money remaining in the officeholder expense account after April 30 of an election year shall either not be spent for the remainder of the calendar year, or shall be remitted to the Clean Elections Fund;~~
- ~~7. Money in the officeholder expense account shall not be used for direct campaign purposes or in connection with the officeholder's future campaign for elective office; and~~
- ~~8. Permissible uses of the money in the officeholder expense account include:
  - a. Expenditures for office equipment and supplies;
  - b. Expenditures for work related travel;
  - e. Donations to tax-exempt charitable organizations; or
  - d. Expenditures to meet or communicate with constituents.~~

~~G.F.~~ A participating candidate may raise early contributions for election to one office and choose to run for election to another office.

~~H.G.~~ Contributions to officeholder expense accounts are subject to the restrictions of A.R.S. § 41-1234.01, contributions prohibited during session; exceptions.

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**TITLE 2. ADMINISTRATION**

**CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

*Editor's Note: Because the Citizen's Clean Elections Commission is an independent agency, the following Notice of Exempt Rulemaking was exempt from the Governor's Regulatory Review Plan memoranda of January 22, 2009 and April 30, 2009. (See a copy of the memoranda in this issue on pages 1472 through 1474.)*

[R09-81]

**PREAMBLE**

**1. Sections Affected**

R2-20-112  
R2-20-113  
R2-20-702

**Rulemaking Action**

Amend  
Amend  
Amend

Notices of Exempt Rulemaking

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 16-940, et seq.

Implementing statute: A.R.S. § 16-956(C)

**3. The effective date of the rules:**

October 22, 2009

**4. A list of all previous notices appearing in the Register addressing the exempt rule:**

Not applicable

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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**6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**

R2-20-112 prescribes the activities by a political party that are not considered a contribution to or expenditure by a candidate participating in the Clean Elections system. R2-20-112(A) and (B) were amended to provide clarity to the statute. These changes were made based on suggestions from candidates.

R2-20-113 prescribes the requirements for calculation of equalizing funds. The changes to R2-20-113(A) and (B) were made in order to eliminate a means by which candidates could take advantage of the Clean Elections system.

R2-20-702 prescribes the use of campaign funds. The change in R2-20-702(C) was made to eliminate a means by which candidates could take advantage of the Clean Elections system.

Adoption and amendment of the above described rules is exempt from regular rulemaking procedures pursuant of A.R.S. § 16-956(C) of the Citizens Clean Elections Act.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

Not applicable

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Changes between rules as initially proposed and as finally adopted by the Commission were primarily grammatical and stylistic. Additional changes were incorporated at the suggestion of members of the public and Commissioners to clarify terms and provisions of the rules.

**11. A summary of the comments made regarding the rule and the agency response to them:**

Notices of Exempt Rulemaking

The Commissioners solicited public comment throughout the rulemaking process. Comments were generally supportive of the revised rules. Requests for clarifications and revisions and statements in support or opposition to specific provisions were duly considered by the Commission at open meetings and were acted upon as deemed appropriate.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Not applicable

**15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

- R2-20-112. Political Party Exception
- R2-20-113. Calculation of Equalizing Funds

ARTICLE 7. USE OF FUNDS AND REPAYMENT

Section

- R2-20-702. Use of Campaign Funds

ARTICLE 1. GENERAL PROVISIONS

**R2-20-112. Political Party Exception**

~~A. Payment of certain costs excluded from definition of contribution. If the Commission determines that a political party has cooperated, consulted or otherwise acted in concert with or at the suggestion of a featured candidate to produce and/or distribute slate cards, sample ballots or other written materials that substantially promote three or more nominees of the party for public office, then the Commission shall apply this subsection (A) to determine whether the transaction is excluded from the definition of contribution. Pursuant to A.R.S. § 16-901(5)(b)(v), payment by a political party of the costs of printing and postage for slate cards, sample ballots or other written materials that substantially promote three or more nominees of the party for public office shall not be considered a contribution for purposes of the Act or Commission rules, provided that:~~

- ~~1. The political party shall produce and/or distribute such materials in cooperation, consultation or concert with or at the request or suggestion of each candidate or a committee or agent of each candidate featured;~~
- ~~2. Such materials shall not directly or indirectly reference candidates other than nominees of the political party for public office;~~
- ~~3. Such materials shall not be distributed or displayed prior to the general election period unless each candidate featured is unopposed in the primary election; and~~
- ~~4. The exception set forth in this subsection (A) shall not apply to costs incurred with respect to a display of the listing of candidates made on telecommunications systems or in newspapers, magazines or similar types of general circulation advertising.~~

~~B. Payment of certain costs excluded from definition of expenditures. If the Commission determines that a political party has not cooperated, consulted or otherwise acted in concert with or at the suggestion of a featured candidate to produce and/or distribute any printed slate card, sample ballot or other printed listing of three or more candidates for any public office for which an election is held, then the Commission shall apply this subsection (B) to determine whether the transaction is excluded from the definition of expenditure. Pursuant to A.R.S. § 16-901(8)(e), payment by a political party of the costs of preparation, display, mailing or other distribution incurred by the party with respect to any printed slate card, sample ballot or other printed listing of three or more candidates for any public office for which an election is held shall not be considered an expenditure for purposes of the Act or Commission rules, provided that:~~

- ~~1. The political party shall not produce and/or distribute such materials in cooperation, consultation or concert with or at the request or suggestion of any candidate or a committee or agent of any candidate featured;~~
- ~~2. Such materials shall not provide information other than the names, party affiliations and offices sought by the candi-~~

Notices of Exempt Rulemaking

dates; photographs of the candidates; and general information regarding the date of the primary or general election and the location of the recipient's polling place; and

3. The exception set forth in this subsection (B) shall not apply to costs incurred by the party with respect to a display of any listing of candidates made on any telecommunications system or in newspapers, magazines or similar types of general public political advertising.

**A.** Pursuant to A.R.S. §§ 16-901(5)(b)(v) and (8)(c), payment by a political party of the costs of preparation, printing, display, mailing or other distribution for slate cards, sample ballots, other written materials or listings of candidates that substantially promote three or more candidates for any public office for which an election is held, and other election activities not related to a specific candidate, shall not be considered a contribution or an expenditure for purposes of the Act or Commission rules. This exception is subject to the following limitations:

1. "Slate card" is defined as a list that contains only:
  - a. The names, party affiliations and offices sought by the candidates;
  - b. Photographs of the candidates; and
  - c. General information regarding the date of the primary or general election; and
  - d. The location of the recipient's polling place.
2. "Sample ballot" is defined as a facsimile of a ballot listing only the names, party affiliations and offices sought by the candidates, appearing substantially as they would on an actual ballot.
3. "Other written materials or listings of candidates that substantially promote three or more candidates" are defined as materials that contain one or more of the elements of a slate card, in addition to statements and/or images describing the platform of the sponsoring party and the position of the party's candidates, and does not feature, mention or depict opposing candidate or candidates of another party.
4. "Other election activities not related to a specific candidate" include invitations to party-sponsored events, issue canvassing, and voter-registration efforts.
5. "Billboards" are defined as outdoor signs that are larger than 32 square feet in size.
6. The exception set forth in subsection (A) shall not apply to materials defined in subsections (1) through (3) above when distributed or displayed prior to the general election period unless each candidate featured is unopposed in the primary election.
7. The exception set forth in this subsection (A) shall not apply to costs incurred with respect to a display of the listing of candidates made on telecommunications systems, billboards, or in newspapers, magazines or similar types of general circulation advertising.

~~**B.**~~ This Section is intended to establish, for purposes of the Act and Commission rules, circumstances under which the payment by a political party of certain costs described herein shall be excluded from the definition of contribution pursuant to A.R.S. § 16-901(5)(b)(v) or from the definition of expenditures pursuant to A.R.S. § 16-901(8)(c), as applicable. Nothing in this Section shall be construed to prohibit a political party from making any expenditure or contribution not otherwise prohibited by Arizona law.

~~**C.**~~ The Commission shall treat as an expenditure of de minimis value the payment by a political party of the costs of:

1. Preparation and display on the political party's web site of a slate card, sample ballot or other printed listing of three or more candidates for any public office for which an election is held; or
2. Preparation and distribution via e-mail, to recipients who have subscribed to receive e-mail from the political party and whose e-mail addresses are not rented, purchased or otherwise obtained from a third-party source, of a slate card, sample ballot or other printed listing of three or more candidates for any public office for which an election is held.

~~**D.**~~ A political party that pays the costs of preparation, display and/or distribution of a slate card, sample ballot or other printed listing of three or more candidates, as described in subsection (D), and which is otherwise required to file a campaign finance report in accordance with A.R.S. § 16-913, shall disclose such payment as an expenditure with a value of zero dollars.

**R2-20-113. Calculation of Equalizing Funds**

**A.** During the primary election period, the Commission shall pay any participating candidate in the same party primary of a nonparticipating candidate, the amount of the nonparticipating candidate's expenditures in excess of the amount over the primary election spending limit, not to exceed three times the original primary election spending limit, as follows:

1. The nonparticipating candidates' expenditures, made before any coordinated or joint expenditure between the participating candidate and the nonparticipating candidate, which are defined as:
  - a. Any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the purpose of influencing an election in this state;
  - b. A promise or agreement to make an expenditure resulting in an extension of credit; and
  - c. The value of any in-kind contribution received.
2. If an independent expenditure is made against one or more participating candidates for a single office, each participating candidate will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. The participating candidates who were the subject of the expenditure will be the only candidates eligible to receive the equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection

Notices of Exempt Rulemaking

tion, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.

3. If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the party primary of the candidate favored by the independent expenditure will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
  4. If an independent expenditure is made in favor of a single participating candidate, all of the other participating candidates in that party primary will be eligible to receive equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
- B.** During the general election period, a participating candidate who has not engaged in a joint or coordinated expenditure with the opposing nonparticipating candidate during the general election period, will receive equalizing funds when the opposing nonparticipating candidate has received in contributions to date, less the amount of expenditures the nonparticipating candidate made through the end of the primary election period, an amount that exceeds the general election spending limit. The Commission shall pay any participating candidate seeking the same office an amount equal to any excess over the general election spending limit, not to exceed three times the original general election spending limit, as follows:
1. The nonparticipating candidate's contributions include:
    - a. Surplus funds transferred from previous campaign accounts and deposited into the current campaign account;
    - b. Individual contributions;
    - c. \$25 or less contributions;
    - d. In-kind contributions;
    - e. Political committee contributions;
    - f. Personal monies;
    - g. Candidate or family loans;
    - h. Other loans; and
    - i. Contributions to retire campaign debt, irrespective of whether placed in a prior, current or future campaign account. Contributions to retire debt from the immediately preceding election cycle and received within 51 days following the general election shall be disregarded for purposes of calculating equalizing funds in the subsequent election cycle.
  2. In accordance with A.R.S. § 16-952, the nonparticipating candidate's contributions shall not include offsets to contributions, including a refund of a contribution to an individual contributor or to a political committee contributor.
  3. In accordance with A.R.S. § 16-952(C)(4), when a participating candidate is opposed in the general election by an independent candidate or nonparticipating candidate who was not opposed in the party primary, expenditures made during the primary election period by the nonparticipating candidate or independent candidate will not be included in the calculation of equalizing funds.
  4. If an independent expenditure is made against one or more participating candidates for a single office, each participating candidate will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. The participating candidates who were the subject of the expenditure will be the only candidates eligible to receive the equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
  5. If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the election(s) for the same office(s) will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
  6. If an independent expenditure is made in favor of a single participating candidate, all of the other participating candidates in the election for that office will be eligible to receive the equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
- C.** Independent expenditures made against a nonparticipating candidate during the primary or general election periods will not be considered in the calculation of equalizing funds for a participating candidate.
- D.** In accordance with A.R.S. § 16-952(C)(6), during the primary and general election periods, expenditures promoting or opposing candidates for more than one office shall be allocated by the Commission among candidates for different offices based on the relative size or length and relative prominence of the reference to candidates for different offices. Equalizing funds shall be issued to each participating candidate, if applicable, in an amount equal to the proportion of the expenditure that is targeted at the office sought by such participating candidate. If so required by this rule, the Commission may issue equalizing funds based on an expenditure in an amount greater than the amount of such expenditure.

Notices of Exempt Rulemaking

- E. The Commission shall cease to disburse equalizing funds for an election period after the Wednesday following the primary or general election day.
- F. The Commission may decline to issue equalizing funds on the basis of expenditures that the Commission determines to be of de minimis value.

**ARTICLE 7. USE OF FUNDS AND REPAYMENT**

**R2-20-702. Use of Campaign Funds**

- A. A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. Funds shall be disbursed and reported in accordance with A.R.S. § 16-948(C).
- B. A participating candidate's payment from a campaign account to a political committee or civic organization is not a contribution if the payment is reasonable in relation to the value received. Payment of customary charges for services rendered, such as for printing voter or telephone lists, and payment of not more than \$200 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received.
- C. A participating candidate shall not use funds in the candidate's campaign account for:
  - 1. Costs of legal defense in any campaign law enforcement proceeding.
  - 2. Food and beverages for staff and volunteers exceeding \$11 for breakfast, \$16 for lunch, and \$27 for dinner.
  - 3. Personal use, which includes any item listed below:
    - a. Household food items or supplies.
    - b. Clothing, other than items of de minimis value that are used in the campaign, such as campaign "t-shirts" or caps with campaign slogans.
    - c. Tuition payments, other than those associated with training campaign staff.
    - d. Mortgage, loan, rent, lease or utility payments:
      - i. For any part of any personal residence of the candidate or a member of the candidate's family; or
      - ii. For real or personal property that is owned or leased by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.
    - e. Admission to a sporting event, concert, theater or other form of entertainment, unless part of a specific campaign activity.
    - f. Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises.
    - g. Gifts or donations.
  - 4. Fixed assets with a value in excess of \$800, provided the item is for a sufficient campaign use.
  - 5. A joint campaign expenditure with a nonparticipating candidate who has previously triggered matching funds for the participating candidate during the primary or general election cycle in which the proposed expenditure is to take place.
- D. During the primary election period, a participating candidate shall not make any expenditure greater than the difference between:
  - 1. The sum of early contributions received plus public funds disbursed through the primary election period; less
  - 2. All other expenditures made during and for the exploratory, qualifying and primary election periods.
- E. During the general election period, a participating candidate shall not make any expenditure greater than the difference between:
  - 1. The amount of public funds disbursed during and for the general election period; less
  - 2. All other expenditures made during and for the general election period.